

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MEYNARD DESIGNS, INC. AND EARTH,
INC.

Plaintiffs and
Counterclaim-Defendants,

v.

EARTH PRODUCTS INC.

Defendant and
Counterclaim-Plaintiff.

EARTH PRODUCTS INC.

Third-Party Plaintiff and
Counterclaim-Defendant,

v.

PLANET, INC.

Third-Party Defendant and
Counterclaim-Plaintiff.

CIVIL ACTION NO. 05 cv 11781 NMG

**NOTICE OF MOTION AND UNOPPOSED MOTION BY DEFENDANT AND
COUNTERCLAIM-PLAINTIFF EARTH PRODUCTS INC. FOR THE ISSUANCE OF A
LETTER OF REQUEST**

PLEASE TAKE NOTICE that, upon the accompanying affidavit of Derrick W. Toddy, Esq., sworn to on June 5, 2007, and the exhibits annexed thereto, defendant and counterclaim-plaintiff Earth Products Inc. will move this Court, at the John Joseph Moakley United States Courthouse, Suite 2300, One Courthouse Way, Boston, Massachusetts, at a time and date convenient for the Court, for an order, pursuant to 28 U.S.C. § 1781 and the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, for the issuance of a letter of

request to His Excellency the Governor of the Cayman Islands, Government Administration Building, Elgin Avenue, George Town, Grand Cayman, Cayman Islands BWI3, requesting testimony and documents from Thomas Clark and Kareen Watler, on the ground that there are actions that are pending and undetermined in this Court, and without the testimony of these persons, justice cannot be completely done between and among the parties.

Plaintiffs and Planet, Inc. do not oppose the relief requested, though they do not necessarily agree with Earth Products' characterization of this case or its reasons for pursuing said discovery.

WHEREFORE, Earth Products Inc. prays that its motion for the issuance of a letter of request be granted in all respects.

Dated: June 6, 2007

By: /s/ Derrick W. Toddy

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